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Attention: USPTO
Mail Stop Appeal Brief-Patents
Examiner: Michael J. Fisher
Art Unit 3629
Fax number: 571-273-8300

From: Paul R. Katterle
Fax number: 440-585-7578

No. pages incl. this cover sheet: 6

Telephone number: 440-585-7968

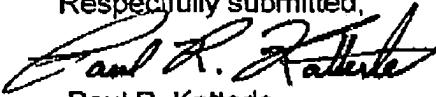
Date: February 13, 2008

MESSAGE:

Re: U.S. Patent Application Serial No. 10/037,389
Entitled: "Programmable Timer Module System"

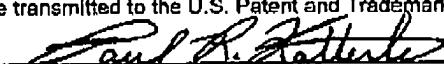
Attached, please find a Reply Brief (5 pages).

Respectfully submitted,



Paul R. Katterle

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office at (571) 273-8300 on the date indicated below.


Signature of Person Making Facsimile Transmission

February 13, 2008

Date

Paul R. Katterle

Printed Name of Person

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FEB 13 2008 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert A. Southworth et al.
Assignee : ABB Inc.
Serial No.: 10/037,389 Art Unit: 3629
Filed: January 4, 2002 Confirmation No.: 7346
Title: Programmable Timer Module System
Examiner: Michael J. Fisher Docket No.: 647-015.01

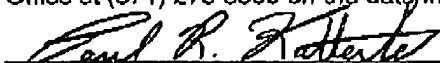
REPLY BRIEF
(In Response to Examiner's Answer of December 13, 2007)

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

In response to the Examiner's Answer of December 13, 2007, Applicant files herewith a Reply Brief. The two-month period for filing the Reply Brief expires on February 13, 2008. No fees are believed due. However, if any fees are in fact due, please charge the same to our Deposit Account No. 050877.

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office at (571) 273-8300 on the date indicated below.



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February 13, 2008
Date

Paul R. Katterle
Name

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I. Status of Claims

Claims 1-76 are currently pending in the application. Claims 1-76 were finally rejected and were the basis for the appeal. In the Examiner Action of December 13, 2007, the Examiner withdrew the final rejection of claims 1-14, 27-31, and 45-76 and allowed said claims. Thus, only claims 15-26 and 32-44 remain the subject of the Appeal.

In summary, the current status of the claims is as follows:

Claims 1-76 are pending;

Claims 1-14, 27-31 and 45-76 have been allowed; and

Claims 15-26 and 32-44 have been finally rejected and are the subject of the Appeal.

II. Grounds of Rejection to be Reviewed on Appeal

The grounds of rejection to be reviewed on appeal are:

whether claims 15-26 and 32-44 are unpatentable under 35 U.S.C.

§103(a) over U.S. Patent No. 6,411,943 to Crawford (hereinafter the Crawford Patent).

III. Argument

The arguments made by Applicant in its Appeal Brief of September 6, 2007 are hereby incorporated by reference. This Reply is mostly directed to the arguments made by the Examiner in the Examiner's Answer of December 13, 2007.

Throughout the Examiner's Answer, the Examiner makes statements about timer modules that are incorrect and contradictory. For example, the Examiner states (with emphasis added):

"Timer modules are old and well known in the art *being merely software.*"

(Bottom of page 3, top of page 4)

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"Timer modules as described, are merely computers with timer software installed." (Page 6, paragraph 2)

"What makes a computer into a "timer module", therefore, is "merely software". (Page 6, paragraph 2)

A casual reading of the Applicant's specification and drawings quickly shows that a timer module is not merely software or merely a computer. A timer module is a complex electrical device that includes circuitry that is not found in a general purpose computer. This is clearly described in the specification, particularly from page 7 through page 25 of the specification. In this regard, notice may be taken of the description of initiate circuit 32-1, time delay adjustment unit 42-1, power supply circuit unit 30-2, etc., etc. In stark contrast, the system of the Crawford Patent is not even remotely related to timer modules. Indeed, the Crawford Patent is totally non-analogous art. It is therefore manifestly clear that the Crawford Patent fails to even remotely show or suggest a "programmable timer module system" comprising a "programmable timer module", as claimed in independent claim 15, or a "timer module system" comprising a "timer module circuit", as claimed in independent claim 32. For at least this reason alone, Applicant submits that the Examiner has failed to establish a *prima facie* case of obviousness of claims 15-26 and 32-44 over the Crawford Patent.

In addition to not even being remotely concerned with timer modules, the Crawford Patent does not even disclose generating software and, thus, does not even disclose a "*program builder system*", as asserted by the Examiner. The system of the Crawford Patent merely makes software available for use and/or download. In addition, the Crawford Patent does not disclose "*a model number data page*". The passage cited by the Examiner as showing such a feature (column 40, line 66 to column 41, line 6) merely discloses: requesting data stored on a replica computer 160 to be transferred to a customer computer 50, using the request to establish a connection between the customer computer 50 and the replica computer 160 and then transferring the data to the customer computer

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50. In response to a substantially similar argument made by the Applicant in the Appeal Brief, the Examiner states in the Examiner's Answer that:

"As to arguments in relation to claim 15, the system does take model number page as it is shown to build a "virtual computer" that is used in Fig. 8A, this would inherently require that the computer model and number is known in order to replicate the computer or else software designed to run on the virtual computer could be incompatible with the customer's computer." (page 6, third paragraph)

Applicant does not understand this statement, particularly the reference to building a 'virtual computer' that is used in Fig. 8A". As set forth in column 28, lines 34-35, "Fig. 8A offers an overview of on-line service control software executed within the on-line service host processor."

With regard to independent claim 32, the Examiner acknowledges "that the prior art does not teach a power supply for converting line voltage, however, as discussed, these are old and well known and therefore, it would be obvious to supply them if the customer wanted them." First, Applicant notes that there was no discussion of such timer power supplies being old. Second, if the prior art does not teach such a timer power supply, how can it be old? Finally, any allegation made that a component, device, etc. is "old" should be supported by reference to a specific piece of prior art. As set forth in MPEP §2144.03, "assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art." (citing *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21).

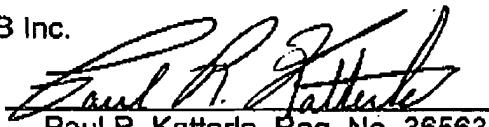
From the foregoing and the Applicant's Appeal Brief, it is manifestly clear that the Crawford Patent is so far removed from the present invention that the Crawford Patent fails to show or even remotely suggest all of the limitations of claims 15-26 and 32-44. Thus, claims 15-26 and 32-44 are not obvious under 35 U.S.C. §103(a) in light of the Crawford Patent.

REPLY BRIEF

Favorable consideration of this appeal, and reversal of the rejection of claims 15-26 and 32-44 is respectfully requested.

Respectfully submitted,

ABB Inc.

By: 
Paul R. Katterle, Reg. No. 36563

February 13, 2008

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